

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND :  
ETHICS IN WASHINGTON :  
and MELANIE SLOAN :  
1400 Eye Street, N.W., Suite 450 :  
Washington, D.C. 20005, :

Plaintiffs, :

v. :

Civil Action No.

FEDERAL ELECTION COMMISSION, :  
999 E Street, N.W. :  
Washington, D.C. 20463 :

Defendant. :

**COMPLAINT FOR DECLARATORY JUDGMENT AND  
INJUNCTIVE RELIEF**

1. This is an action for declaratory and injunctive relief under the Administrative Procedure Act (“APA”), 5 U.S.C. § 706, and 2 U.S.C. § 437g(a)(8), challenging as arbitrary, capricious, an abuse of discretion, and contrary to law the dismissal by the Federal Election Commission (“FEC” or “Commission”) of a complaint by Citizens for Responsibility and Ethics in Washington (“CREW”) and CREW Executive Director Melanie Sloan without providing a Statement of Reasons or explanation for the dismissal.

2. This is also an action for declaratory and injunctive relief under the APA, 5 U.S.C. § 706, and 2 U.S.C. § 437g(a), challenging as arbitrary, capricious, and contrary to law the pattern and practice of the FEC to effectively deprive complainants before it of their statutory right to review in the U.S. District Court for the District of Columbia of the FEC’s dismissals of their complaints by failing to provide Statements of Reasons or any other explanation for the

dismissals within the 60-day period for filing petitions for review.

### **JURISDICTION AND VENUE**

3. This action arises under the Federal Election Campaign Act, 2 U.S.C. §§ 431 *et seq.* (“FECA” or the “Act”), as amended by the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155; the APA, 5 U.S.C. §§ 551-706, and the Declaratory Judgment Act, 2 U.S.C. § 2201. The Court has both subject matter and personal jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1336; 5 U.S.C. §§ 701, 702, and 706; and 2 U.S.C. § 437g(a)(8)(A). The APA, 5 U.S.C. § 702, gives private parties the right to seek injunctive relief when adversely affected or aggrieved by arbitrary or capricious agency action or inaction, as well as action or inaction that is contrary to law. The APA also empowers courts to compel agency action unlawfully withheld or unreasonably delayed. 5 U.S. § 706.

4. Venue in this district is proper pursuant to 28 U.S.C. § 1391(e), 5 U.S.C. § 703, and 2 U.S.C. § 437g(a)(8).

### **PARTIES**

5. Plaintiff CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to ensuring the integrity of government officials and to protecting the right of citizens to be informed about the activities of government officials. CREW seeks to empower citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

6. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. CREW does this in part by educating citizens regarding the

integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and publicizes those who violate federal campaign finance laws through its website, press releases, reports, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violations and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance laws.

7. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA or fails to comply with other provisions of the FECA, including the requirement that principal campaign committees register with the FEC. 2 U.S.C. § 433(a).

8. CREW is also hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements, which provide CREW with the only source of information in determining if a candidate, political committee, or other regulated entity is complying with the FECA.

9. Plaintiff Melanie Sloan is the executive director of CREW, a citizen of the United States, and a registered voter and resident of the District of Columbia. As a registered voter, Ms. Sloan is entitled to receive all the information the FECA requires candidates to report publicly and to the FEC's proper administration of the provisions of the FECA. Ms. Sloan is harmed when a candidate, political committee, or other regulated entity fails to report campaign finance activity or all other information required by the FECA

10. Ms. Sloan is also personally committed to ensuring the integrity of federal elections. Toward that end, Ms. Sloan reviews campaign finance filings and media reports to determine whether candidates and political committees comply with the FECA's requirements. When Ms. Sloan discovers a violation of the FECA, she submits complaints against violators pursuant to her rights under the law, 2 U.S.C. § 437g(a)(1).

11. Both CREW and Ms. Sloan are harmed when the FEC fails to properly administer the FECA, particularly its reporting requirements, thereby limiting their ability to review campaign finance information.

12. When CREW and Ms. Sloan file complaints against violators of the FECA, they rely on the FEC, as the exclusive civil enforcement authority, to comply strictly with the FECA when making its enforcement decisions. *See* 2 U.S.C. § 437d(e). CREW and Ms. Sloan are harmed and are "aggrieved" parties when the FEC dismisses their complaints contrary to the FECA or otherwise acts contrary to the requirements of the FECA. 2 U.S.C. § 437g(a)(8)(C).

13. CREW and Ms. Sloan are dedicated to pursuing and protecting their interests and rights under the FECA to the fullest extent available under the law. When the FEC acts contrary to the FECA in dismissing a complaint brought by CREW or Ms. Sloan, both CREW and Ms. Sloan seek to vindicate their rights as aggrieved parties under the FECA by filing complaints before the U.S. District Court for the District of Columbia as authorized by 2 U.S.C. § 437g(a)(8).

14. CREW and Ms. Sloan are harmed when the FEC arbitrarily and capriciously dismisses their complaints without providing any reason for the dismissal prior to the 60-day period in which complainants must file a petition with the U.S. District Court for the District of

Columbia pursuant to 2 U.S.C. § 437g(a)(8), as such dismissals effectively deprive CREW and Ms. Sloan of their statutory rights to judicial review.

15. Defendant FEC is an agency within the meaning of 5 U.S.C. § 552(f) and was established by Congress to oversee the administration of the FECA. *See* 2 U.S.C. § 437c. The Commission has exclusive jurisdiction with respect to the civil enforcement of the FECA, 2 U.S.C. § 437c(b)(1), and is empowered to dismiss complaints brought before it for violations of the FECA, 2 U.S.C. § 437g(a). The FEC has dismissed at least several complaints brought by CREW and/or Ms. Sloan pursuant to that authority.

#### **STATUTORY AND REGULATORY FRAMEWORK**

16. Under the FECA, any person who believes there has been a violation of the FECA can file a sworn complaint with the FEC. 2 U.S.C. § 437g(a)(1). Upon receipt of a complaint, the FEC has five days in which to notify the person or persons alleged in the complaint to have violated the Act. *Id.* The respondent then has 15 days to demonstrate to the FEC that no action should be taken based on the complaint. *Id.*

17. Based on the complaint, response, and any recommendation of the FEC Office of General Counsel, the FEC may then vote on whether there is “reason to believe” a violation of the FECA has occurred. 2 U.S.C. § 437g(a)(2). If the FEC finds there is “reason to believe” a violation of the FECA has occurred, the FEC must notify the respondents of that finding and must “make an investigation of such alleged violation.” *Id.*

18. After the investigation, the FEC’s general counsel may recommend that the FEC vote on whether there is “probable cause” to believe the FECA has been violated. 2 U.S.C. § 437g(a)(3). The general counsel must notify the respondents of any such recommendation and

provide the respondents with a brief stating the position of the general counsel on the legal and factual issues presented. *Id.* Within 15 days of receiving the brief, respondents may submit their own brief on the legal and factual issues presented in the case and replying to the brief of the general counsel. *Id.*

19. Upon consideration of these briefs, the FEC may then determine whether there is “probable cause” to believe a violation of the FECA has occurred. 2 U.S.C. § 437g(a)(4)(A)(I). If the FEC finds probable cause to believe a violation of the FECA has occurred, the FEC must attempt for at least 30 days, but not more than 90 days, to resolve the matter “by informal methods of conference, conciliation and persuasion,” *id.*, a process that does not involve the complainant.

20. If the FEC is unable to settle the matter through informal methods, it may institute a civil action for legal and equitable relief in the appropriate United States district court. 2 U.S.C. § 434g(a)(6)(A). In any action instituted by the FEC, a district court may grant injunctive relief as well as impose monetary penalties. 2 U.S.C. §§ 437g(a)(6)(B)-(C).

21. If, at any stage of the proceedings, the FEC dismisses a complaint, any “party aggrieved” may seek judicial review of that dismissal in the United States District Court for the District of Columbia. 2 U.S.C. § 437g(a)(8)(A). All petitions from the dismissal of a complaint by the FEC must be filed “within 60 days after the date of the dismissal.” 2 U.S.C. § 437g(a)(8)(B). The FECA also allows a party filing an administrative complaint to seek judicial review of the FEC’s “failure . . . to act” after 120 days have elapsed. 2 U.S.C. § 437g(a)(8)(A).

22. The district court lacks jurisdiction over any petition for review filed more than 60 days after the date of dismissal, even when the complainant does not receive timely notice of the

dismissal. *Spannaus v. Fed. Election Comm'n*, 990 F.2d 643, 644 (D.C. Cir. 1993).

23. The FECA, by vesting in the FEC exclusive jurisdiction to civilly enforce the Act's provisions and setting forth a detailed time schedule within which the FEC must act on complaints, allows the development of a record before the matter reaches the U.S. District Court for the District of Columbia pursuant to 2 U.S.C. § 437g(a)(8)(A). *In re Carter-Mondale Reelection Committee, Inc.*, 642 F.2d 538, 542-43 (D.C. Cir. 1980). It also avoids unnecessary judicial review, as "[i]nvestigations of complaints may result in a vindication of the alleged conduct to the complete satisfaction of all." *Id.* at 543.

24. The district court reviewing either the FEC's dismissal or its failure to act may declare the FEC's actions (or inactions) "contrary to law." 2 U.S.C. § 437g(a)(8). The court may also order the FEC "to conform with such declaration within 30 days." *Id.* If the FEC fails to abide by the court's order, the FECA provides the complainant with a private right of action, brought in its own name, "to remedy the violation involved in the original complaint." *Id.*

25. FEC regulations require the FEC to place commissioner opinions in enforcement cases, general counsel's reports, and non-exempt investigatory materials on the public record within 30 days from the date on which respondents are notified the FEC has voted to close an enforcement file. 11 C.F.R. § 5.4(a)(4)

26. Following the dismissal of a complaint, the Secretary of the Commission also issues a certification attesting to the action taken by the Commission with respect to a particular complaint, including how each commissioner voted on each enumerated motion. The certification is placed on the public record.

#### **FACTS GIVING RISE TO PLAINTIFF'S CLAIMS FOR RELIEF**

27. On March 14, 2007, CREW and Melanie Sloan filed a complaint with the FEC against Peace Through Strength Political Action Committee (“PTS PAC”) and its treasurer, Meredith Kelley, for violations of the FECA. The complaint alleged: (1) PTS PAC, the political action committee of Rep. Duncan Hunter who was then a candidate for president of the United States, had knowingly received 11 contributions exceeding the FECA’s individual contribution limit for “testing the waters” activities in violation of 2 U.S.C. § 441a(f); (2) PTS PAC had failed to register as a candidate committee in violation of 2 U.S.C. § 433(a); (3) PTS PAC had made an excessive in-kind contribution in violation of 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 110.2(b)(1); and (4) to the extent PTS PAC had failed to report disbursements for certain television advertisements it had violated 11 C.F.R. §§ 104.3(b) and 104.9(a).

28. Over three years later and long after the presidential election for which Rep. Hunter’s PAC was formed had concluded, FEC Assistant General Counsel Mark Shonkwiler advised CREW by letter dated July 23, 2010, and received by CREW on July 27, 2010, of the FEC’s actions with respect to CREW’s complaint, designated as MUR 5908. Mr. Shonkwiler’s letter was the first and only substantive communication CREW received from the FEC regarding its complaint in MUR 5908.

29. According to Mr. Shonkwiler, the FEC found reason to believe Peace Through Strength Political Action Committee, Treasurer Meredith G. Kelley, Duncan Hunter, Hunter for President, Inc. and Treasurer Bruce Young violated specified provisions of the FECA and FEC regulations. Mr. Shonkwiler further advised that on June 29, 2010, the FEC determined to take no further action and closed the file in this matter.

30. Mr. Shonkwiler stated that documents related to this case will be placed on the



public record within 30 days – which may be beyond the date by which a petition pursuant to 2 U.S.C. § 437g(a)(8) must be filed – and “A Statement of Reasons further explaining the basis for the Commission’s decision will follow” at some unidentified date.

31. To date, CREW has not seen either the documents related to this case or the FEC’s Statement of Reasons explaining its dismissal of CREW’s complaint. Nor has the FEC issued a certification of the action it took in MUR 5908, including an explanation of how each FEC commissioner voted with respect to the motion to find probable cause. Without these documents, CREW cannot ascertain the basis for the FEC’s dismissal of CREW’s complaint.

32. On September 24, 2004, CREW filed a complaint with the FEC against The November Fund, Bill Sittman as treasurer of The November Fund, the U.S. Chamber of Commerce, Tom Donohue as President of the U.S. Chamber of Commerce, Bush-Cheney ‘04, and Bush Cheney ‘04 Campaign Manager Ken Mehlman for violations of federal campaign finance laws.

33. On December 15, 2008, over four years after CREW filed its complaint and five calendar days before any request for judicial review pursuant to 2 U.S.C. § 437g(a)(8) was due, the FEC hand-delivered to CREW a letter from FEC Assistant General Counsel Mark Shonkwiler describing the FEC’s actions in relation to CREW’s complaint, designated as MUR 5541. Mr. Shonkwiler’s letter was the first and only substantive communication CREW received from the FEC regarding its complaint in MUR 5541.

34. According to Mr. Shonkwiler, on March 8, 2005, the FEC found reason to believe The November Fund and Bill Sittman had violated 2 U.S.C. §§ 433, 434, 441a(f), and 441b(a), and that the U.S. Chamber of Commerce and Tom Donohue had violated 2 U.S.C. § 441b(a).

Two years later, on November 27, 2007, the FEC authorized the Office of the General Counsel to enter into negotiations to attempt to reach a settlement of this matter prior to a finding of probable cause to believe. A year later, on October 21, 2008, the FEC was equally divided on whether to accept a revised conciliation agreement and whether to take further action in this matter and, as a result, closed the matter. The FEC's letter stated further: "A Statement of Reasons further explaining the basis for the Commission's decision will follow."

35. The FEC originally attempted to send its letter, which was dated November 26, 2008, by certified mail, return receipt requested and addressed to CREW at 11 DuPont Circle, N.W., 2<sup>nd</sup> Floor, Washington, D.C. 20036. CREW has not occupied that address since April 2006, and the letter was returned to the FEC as undeliverable.

36. The FEC did not provide CREW with its Statement of Reasons at the time it advised CREW on December 15, 2008, of the dismissal of CREW's complaint, nor did the FEC provide CREW with its Statement of Reasons prior to the expiration of the 60-day period for filing any petition of the dismissal pursuant to 2 U.S.C. § 437g(a)(8).

37. In the absence of the FEC's statement of reasons explaining why it dismissed CREW's complaint in MUR 5541, CREW was unable to ascertain whether there was a basis to file a petition pursuant to 2 U.S.C. § 437g(a)(8) challenging the FEC's dismissal of CREW's complaint. As a result of the FEC's arbitrary and capricious failure to provide an explanation of the basis for its dismissal, CREW did not file a petition for judicial review of the FEC's dismissal of MUR 5541.

38. On information and belief, the FEC has a pattern and practice of arbitrarily and capriciously failing to provide the basis for its dismissal of complaints before the expiration of

the 60-day period in which a petition for review in the U.S. District Court for the District of Columbia must be filed pursuant to 2 U.S.C. § 437g(a)(8), particularly in cases where the FEC commissioners are deadlocked in their votes.

39. Not only did the FEC fail to provide information concerning the bases for its dismissals of CREW's complaints, but it has done so in other matters as well. As part of its pattern and practice, the FEC dismissed MUR 5712 and MUR 5799 on March 18, 2009. These complaints were brought against Senator and then-presidential candidate John McCain in March 2006 (MUR 5712) and August 2006 (MUR 5799), alleging solicitation of so-called "soft money" in violation of the Bipartisan Campaign Reform Act of 2002. The dismissals occurred well after the presidential campaign had concluded. The FEC did not provide a Statement of Reasons explaining either dismissal until nearly one year later, on March 5, 2010.

40. Similarly, as part of that pattern and practice, the FEC dismissed MUR 5724 on October 7, 2008, after the FEC commissioners deadlocked. The dismissed complaint was filed on March 22, 2006, against then congressional candidate Jim Feldkamp and his campaign for allegedly accepting excessive campaign contributions in violation of the FECA. The FEC did not issue its first Statement of Reasons explaining the basis for the dismissal until over 60 days later on December 11, 2009, and a second Statement of Reasons until December 15, 2009.

41. As part of that pattern and practice, on May 19, 2009, the FEC also dismissed the complaint in MUR 5575 against the Alaska Democratic Party and the Tony Knowles for U.S. Senate Committee for alleged violations of the FECA. The complaint was filed nearly three years earlier on October 19, 2004. After dismissing the complaint, the FEC waited over 60 days until July 27, 2009, to issue a Statement of Reasons explaining the basis for its dismissal.

42. As part of that pattern and practice, the FEC dismissed the complaint in MUR 5835 against the Democratic Congressional Campaign Committee and Treasurer Brian L. Wolff for alleged violations of the Bipartisan Campaign Reform Act on February 10, 2009, but did not issue a Statement of Reasons until nearly five months later on July 1, 2009.

43. As part of that pattern and practice, on November 18, 2008, the FEC dismissed the January 15, 2005 complaint in MUR 5642 against George Soros for allegedly failing to report an independent expenditure. The FEC waited until January 22, 2009, to issue its first Statement of Reasons, following that up with a second Statement of Reasons on March 10, 2009.

44. In each instance where the FEC arbitrarily and capriciously failed to provide a Statement of Reasons or other explanation for the basis of its dismissal of a complaint, the complainant lacked a basis for filing a petition for review within 60 days of the dismissal.

45. In each instance where the FEC arbitrarily and capriciously failed to provide a Statement of Reasons or other explanation for the basis of its dismissal of a complaint, there was no adequate record from which a reviewing court, consistent with its judicial role under the FECA, could rule on a petition challenging the dismissal.

46. On information and belief, the FEC refrains from issuing Statements of Reasons explaining the bases for its dismissal within the 60-day period for filing a petition for review under 2 U.S.C. § 437g(a)(8) with the intent and/or effect of depriving complainants of their statutory right to judicial review and preventing the U.S. District Court for the District of Columbia from ruling on an issue on which the FEC has not been able to reach consensus.

**PLAINTIFFS' CLAIM FOR RELIEF**

**CLAIM ONE**

**For an Order Declaring the FEC's Dismissal of MUR 5908  
Arbitrary, Capricious, and Contrary to Law**

47. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if fully set forth herein.

48. The FEC's dismissal of the complaint in MUR 5908 without providing a Statement of Reasons or any other explanation whatsoever for the basis of its dismissal is arbitrary, capricious, an abuse of discretion, and contrary to law in violation of 2 U.S.C. § 437g(a)(8)(A).

49. Plaintiffs are therefore entitled to relief in the form of a declaratory order that defendant FEC is in violation of its statutory responsibilities under 2 U.S.C. § 437g(a)(8) and has acted arbitrarily and capriciously in failing to provide an explanation for its dismissal of MUR 5908.

**For an Order Compelling the FEC to Explain the Basis  
for Dismissing Complaints Within 60 Days of Any Dismissal**

50. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if fully set forth herein.

51. Pursuant to 2 U.S.C. § 437g(a)(8), unless a petition for review of the FEC's dismissal of a complaint is filed within 60 days of the dismissal, the U.S. District Court for the District of Columbia lacks jurisdiction to hear the petition.

52. In the absence of a Statement of Reasons or other explanation for the FEC's dismissal of a complaint, a complainant is unable to ascertain whether there is a basis to file a petition for review with the U.S. District Court for the District of Columbia.

53. In the absence of a Statement of Reasons or other explanation for the FEC's dismissal of a complaint, the district court reviewing any petition from a dismissal of a complaint

by the FEC is unable to resolve the matter because to do so would stray beyond the judicial and administrative roles mandated for the court and the FEC respectively by the Supreme Court.

*Common Cause v. Fed. Election Comm'n*, 906 F.2d 705, 706-07 (D.C. Cir. 1990), citing *SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947).

54. Accordingly, in order to give meaningful effect to the statutory right to judicial review conferred on any “party aggrieved” by 2 U.S.C. § 437g(a)(8)(A), the FEC by law must provide an explanation for its dismissal of any complaint within the 60-day period in which a petition for review of the dismissal must be filed.

55. The FEC’s pattern and practice of knowingly failing to issue a statement of reasons or other explanation for its action within 60 days of dismissing a complaint, thereby effectively preventing complainants from seeking further judicial review, is arbitrary, capricious, an abuse of discretion, and contrary to law.

56. Plaintiffs are therefore entitled to relief in the form of a declaratory order that defendant FEC is in violation of its statutory responsibilities under 2 U.S.C. § 437g(a)(8) and has acted arbitrarily and capriciously in failing to provide an explanation for dismissals of complaints within 60 days of the dismissals. Plaintiffs are also entitled to an injunction compelling defendant FEC to provide a Statement of Reasons or other explanation for dismissing any complaint sufficiently within 60 days of the dismissal so as to permit a complainant to file a petition for review with the U.S. District Court for the District of Columbia.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully request that this Court:

(1) Declare that the FEC’s dismissal of MUR 5908 without providing a Statement of

Reasons or other explanation for the dismissal is contrary to law;

(2) Remand the matter to the FEC with an order to conform to the declaration within 30 days;

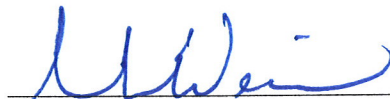
(3) Declare the failure of the FEC to provide a Statement of Reasons or other explanation for dismissing complaints within 60 days of such dismissals arbitrary, capricious, and contrary to law;

(4) Order the FEC to issue a Statement of Reasons or other explanation for dismissing complaints sufficiently within 60 days of such dismissals so as to permit a complainant to file a petition for review with the U.S. District Court for the District of Columbia;

(5) Award plaintiff its costs, expenses, and reasonable attorneys' fees in this action; and

(6) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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Anne L. Weismann  
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Melanie Sloan  
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Dated: August 11, 2010

JS-44  
 (Rev. 1/05 DC)

<b>I (a) PLAINTIFFS</b> Citizens for Responsibility and Ethics in Washington <div style="text-align: right; margin-right: 50px;">11001</div> (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> Federal Election Commission COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>11001</u> NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED
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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Anne L. Weismann Melanie Sloan Citizens for Responsibility and Ethics in Washington 1400 Eye Street, N.W., Suite 450 Washington, D.C. 20005 (202) 408-5565	Case: 1:10-cv-01350 Assigned To : Collyer, Rosemary M. Assign. Date : 8/11/2010 Description: Admn. Agency Review
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<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY) <table style="width: 100%; margin-top: 10px;"> <tr> <td><input type="radio"/> 1 U.S. Government Plaintiff</td> <td><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</td> </tr> <tr> <td><input checked="" type="radio"/> 2 U.S. Government Defendant</td> <td><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</td> </tr> </table>	<input type="radio"/> 1 U.S. Government Plaintiff	<input type="radio"/> 3 Federal Question (U.S. Government Not a Party)	<input checked="" type="radio"/> 2 U.S. Government Defendant	<input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<b>III CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width: 100%; margin-top: 10px;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input checked="" type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act <b>Social Security:</b> <input type="checkbox"/> 861 HIA ((1395ff)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>Other Statutes</b> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b> <b>OR</b> <input type="radio"/> <b>F. Pro Se General Civil</b>			
<b>Real Property</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <b>Personal Property</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>Bankruptcy</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>Prisoner Petitions</b> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition  <b>Property Rights</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>Federal Tax Suits</b> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<b>Forfeiture/Penalty</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>Other Statutes</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

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<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/PRIVACY ACT</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

**ORIGIN**

1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi district Litigation  
  7 Appeal to District Judge from Mag. Judge

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 U S C 706 and 2 U S C 437g(a)(8), challenging pattern and practice of FEC in failing to issue statements and FEC's dismissal of complaint by CREW

**VII. REQUESTED IN COMPLAINT**       CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23      **DEMAND \$** \_\_\_\_\_      Check YES only if demanded by complaint  
**JURY DEMAND:**      YES       NO

**VIII. RELATED CASE(S) IF ANY**      (See instruction)      YES       NO       If yes, please complete related case form

**DATE** 8/11/10      **SIGNATURE OF ATTORNEY OF RECORD** 

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence. Use 11001 to indicate plaintiff is resident of Washington, D.C., 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES. This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT. The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case.
- VI. CAUSE OF ACTION. Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, IF ANY. If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.